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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on: 16th December, 2015

\+ **BAIL APPLN. 2495/2015**

SHEELA ARORA ..... Petitioner

Represented by: Mr.M.K.Ghosh, Ms.Tina Garg and Mr.Rohit Dutta, Advs.

versus

THE STATE (GOVT F NCT OF DELHI) ..... Respondent

Represented by: Mr.Amit Chadha, APP for the State with SI Lalit Chauhan, PS Roop Ngr, Delhi in person.
Mr.Mayank Goel and Mr.Lalruatpuia Saib, Advs for complainant.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. By way of this petition filed under Section 438 of the Code of Criminal Procedure, 1973, petitioner seeks anticipatory bail in case FIR No.494/2015 registered at Police Station Roop Nagar, for the offences punishable under Sections 420/467/468/471/120B of the IPC against her.

2. The case against the petitioner is that the complainant along with his parents Mr.Manmohan Singh and Smt.Satpal Kaur had purchased the property admeasuring 156.38 square meters comprising the ground floor which falls on the southern ½ portion of premises bearing No.7/3, Roop Nagar, Delhi for a total sale consideration of Rs.1.50 Crore and sale deed

was executed for an amount of Rs.58.00 Lac only. After purchase of said property, a lease deed was executed by the complainant and his parents in favour of son of petitioner namely Ajay Arora, for a monthly rental of Rs.20,000/-. Shri Ajay Arora failed to pay rent for the period commencing from March, 2015 upon which repeated efforts were made by the complainant to contact him. The complainant visited the property, but none of the family members were available and he had no knowledge about the whereabouts to contact them. Accordingly, complainant issued notice terminating tenancy of Shri Ajay Arora, which was not replied to. Thereafter, complainant made enquiries at the office of Sub Registrar, Kashmere Gate, Delhi whereby it is revealed that earlier chain of title documents executed by petitioner and her son were forged one. Further enquiries from the neighbours on further visit to property in question revealed that said property had been mortgaged with Bank of Maharashtra by petitioner and her son and bank officials visited the property in question and pasted notice in this regard.

3. Learned counsel appearing on behalf of the petitioner submits that petitioner is aged lady and none of her family members ever sold the property to complainant at any point of time. The complainant had advanced a loan to the tune of Rs.58.00 Lac to the son of petitioner early in the year 2014 and at that time had compelled the petitioner and her family members to sign blank documents as security arrangement. The petitioner on the assurance of complainant that it will not be misused and will be returned as soon as loan amount is repaid, and thus was forced to sign those document. The entire loan amount along with interest thereon had been repaid to complainant by the end of March, 2015. However, the

complainant flatly refused to return the signed blank documents and continued to extort large amount of money from her.

4. He further submits that neither the petitioner nor any of her family members had ever sold the property in question to complainant. The electricity and water bills are still in the name of petitioner. Had the petitioner sold the property, there was no question for her to stay therein.

5. Learned counsel further submits that petitioner already joined the investigation, however no discriminating material recovered from her. He placed reliance upon the decision dated 01.09.2015 of the Apex Court in ***Bhadresh Bipinbhai Sheth v State of Gujarat: Crl Appeal Nos.1134-35 of 2015.*** The Apex Court has held as under:-

> *"22. It is pertinent to note that while interpreting the expression "may, if it thinks fit" occurring in Section 438(1) of the Code, the Court pointed out that it gives discretion to the Court to exercise the power in a particular case or not, and once such a discretion is there merely because the accused is charged with a serious offence may not by itself be the reason to refuse the grant of anticipatory bail if the circumstances are otherwise justified. At the same time, it is also the obligation of the applicant to make out a case for grant of anticipatory bail. But that would not mean that he has to make out a "special case". The Court also remarked that a wise exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use."*

6. The bail application has been opposed by learned Prosecutor for the State who is also assisted by learned counsel for complainant.

7. Pursuant to the order dated 20.11.2015, the State has filed the status report whereby it is stated that during course of investigation, it was found

that property in question was mortgaged by son of petitioner with Bank of Maharashtra for a loan amount of Rs.5.80 Crore and the petitioner and Rakesh Dhingra are the guarantors in said loan. Son of petitioner prepared the forged documents of the property in question and accused Rakesh Dhingra made illegal release deed in favour of his mother i.e. petitioner herein. On the basis of the illegal release deed, the petitioner sold the said property to the complainant Mr.Gurmeet Singh for an amount of Rs.1.50 Crore knowing it fully well that sale deed is illegal as the property in question has already been mortgaged by her and her son with Bank of Maharashtra. Thereafter, accused persons again prepared forged documents of the property in question and mortgaged it to the State Bank of India for an amount of Rs.1.50 Crore and the petitioner against stood guarantor in this deal. Thus, the accused persons have cheated the Bank of Maharashtra for an amount of Rs.5.80 Crore and State Bank of India for Rs.1.50 Crore in addition to the complainant.

8. There is no denial to the fact that petitioner joined the investigation only after passing of the directions by this Court. However, she did not cooperate and not depose true facts. The siphoned and cheated money which belongs to nationalised bank is to be recovered from petitioner and other co-accused persons. Therefore, the custody of petitioner is required at this stage of the case.

9. Keeping in view the allegations against petitioner and the facts of the case, I am not inclined to allow the instant petition, which is accordingly dismissed.

10. Needless to state that protection granted to petitioner stands

vacated.

11. A copy of this order be given *dasti* to the learned counsel for the petitioner.

<u>Crl. M.(Bail).No.8157/2015</u>

Dismissed as infructuous.

SURESH KAIT
(JUDGE)

DECEMBER 16, 2015
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